

## Nuclear Regulatory Commission

## § 95.1

of the Nuclear Regulatory Commission will advise the appellant of the designation of the Board, its composition, and Chairman.

[40 FR 8793, Mar. 3, 1975]

### § 81.53 Review by the Board.

(a) The Board shall determine the propriety of any decision concerning the grant, denial, interpretation, modification, or revocation of a license according to the policy and criteria of these regulations, including § 81.11, on the record and evidence submitted by an appellant and the Commission to the Board.

(b) A hearing may be requested by the Commission or an appellant within fifteen (15) days after the notice set forth under § 81.52(c). An appellant and the Commission shall be given a minimum of fifteen (15) days' notice of the time and place of a hearing. The Commission and the appellant shall have an opportunity to make oral arguments before the Board.

(c) The Board shall make findings of fact and reach a conclusion with respect to the propriety of the decision of the Commission, which conclusion shall constitute the final action of the Commission.

## PART 95—FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

### GENERAL PROVISIONS

Sec.

- 95.1 Purpose.
- 95.3 Scope.
- 95.5 Definitions.
- 95.7 Interpretations.
- 95.8 Information collection requirements: OMB approval.
- 95.9 Communications.
- 95.11 Specific exemptions.
- 95.13 Maintenance of records.

### PHYSICAL SECURITY

- 95.15 Approval for processing licensees and others for facility clearance.
- 95.17 Processing facility clearance.
- 95.18 Key personnel.
- 95.19 Changes to security practices and procedures.
- 95.20 Grant, denial or termination of facility clearance.

- 95.21 Withdrawal of requests for facility security clearance.
- 95.23 Termination of facility clearance.
- 95.25 Protection of National Security Information and Restricted Data in storage.
- 95.27 Protection while in use.
- 95.29 Establishment of Restricted or Closed areas.
- 95.31 Protective personnel.
- 95.33 Security education.
- 95.34 Control of visitors.

### CONTROL OF INFORMATION

- 95.35 Access to matter classified as National Security Information and Restricted Data.
- 95.36 Access by representatives of the International Atomic Energy Agency or by participants in other international agreements.
- 95.37 Classification and preparation of documents.
- 95.39 External transmission of documents and material.
- 95.41 External receipt and dispatch records.
- 95.43 Authority to reproduce.
- 95.45 Changes in classification.
- 95.47 Destruction of matter containing classified information.
- 95.49 Security of automatic data processing (ADP) systems.
- 95.51 Retrieval of classified matter following suspension or revocation of access authorization.
- 95.53 Termination of facility clearance.
- 95.55 Continued applicability of the regulations in this part.
- 95.57 Reports.
- 95.59 Inspections.

### VIOLATIONS

- 95.61 Violations.
- 95.63 Criminal penalties.

AUTHORITY: Atomic Energy Act of 1954, secs. 145, 161, 223, 234 (42 U.S.C. 2165, 2201, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note; E.O. 10865, as amended, 25 FR 1583, 3 CFR, 1959–1963 Comp., p. 398; E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298.

SOURCE: 45 FR 14483, Mar. 5, 1980, unless otherwise noted.

### GENERAL PROVISIONS

#### § 95.1 Purpose.

The regulations in this part establish procedures for obtaining facility security clearance and for safeguarding Secret and Confidential National Security Information and Restricted Data received or developed in conjunction

### § 95.3

with activities licensed, certified or regulated by the Commission. This part does not apply to Top Secret information because Top Secret information may not be forwarded to licensees, certificate holders, or others within the scope of an NRC license or certificate.

[62 FR 17690, Apr. 11, 1997, as amended at 68 FR 41222, July 11, 2003]

### § 95.3 Scope.

The regulations in this part apply to licensees, certificate holders and others who may require access to classified National Security Information and/or Restricted Data and/or Formerly Restricted Data (FRD) that is used, processed, stored, reproduced, transmitted, transported, or handled in connection with a license or certificate or an application for a license or certificate, or other activities as the Commission may determine.

[70 FR 32227, June 2, 2005]

### § 95.5 Definitions.

*Access authorization* means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, licensees and certificate holders, or other persons designated by the Executive Director for Operations, is eligible for a security clearance for access to classified information.

*Act* means the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

*Classified mail address* means a mail address established for each facility approved by the NRC, to which all classified information for the facility is to be sent.

*Classified matter* means documents or material containing classified information.

*Classified National Security Information* means information that has been determined under E.O. 13526, as amended, or any predecessor or successor order to require protection against unauthorized disclosure and that is so designated.

*Classified shipping address* means an address established for a facility, approved by the NRC to which classified

### 10 CFR Ch. I (1–1–16 Edition)

material that cannot be transmitted as normal mail is to be sent.

*Closed area* means an area that meets the requirements of the CSA, for the purpose of safeguarding classified material that, because of its size, nature, or operational necessity, cannot be adequately protected by the normal safeguards or stored during non-working hours in approved containers.

*Cognizant Security Agency (CSA)* means agencies of the Executive Branch that have been authorized by E.O. 12829 to establish an industrial security program for the purpose of safeguarding classified information under the jurisdiction of those agencies when disclosed or released or released to U.S. industry. These agencies are the Department of Defense, the department of Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission. A facility has a CSA which exercises primary authority for the protection of classified information at the facility. The CSA for the facility provides security representation for other government agencies with security interests at the facility. The Secretary of Defense has been as Executive Agent for the National Industrial Security Program.

*Combination lock* means a three position, manipulation resistant, dial type lock bearing an Underwriters' Laboratories, Inc. certification that it is a Group 1 or Group IR unit.

*Commission* means the Nuclear Regulatory Commission or its duly authorized representatives.

*Facility (Security) Clearance (FCL)* means an administrative determination that, from a security viewpoint, a facility is eligible for access to classified information of a certain category (and all lower categories).

*Foreign ownership, control, or influence (FOCI)* means a foreign interest that has the power, direct or indirect, whether or not exercised, and whether or not exercisable through the ownership of a U.S. company's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company in a manner which may result in unauthorized access to classified information or may affect